IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 8276 of 2005

Between:

M/s. Worldwide Diamond Manufacturers Pvt. Ltd, Regd. Office at Mumbai and Branch office at 7 SDF,VSEZ, Duvvada Visakhapatnam—530046, rep.by Chief Engineer Sri R.Ramakrishna Rao

..... PETITIONER

AND

1 M/s. Eastern Power Distribution Company Of A.P Ltd, Operation Zone II, Kncharapalem.
2 The Superintending Engineer, OPeration: Visakhapatnam,
Eastern Power Distribution Company Of A.P. Ltd, Visakhapatnam.
3 The Divisional Engineer , Operation, Zone II,
Eastern Power Distribution Company Of A.P Litd, Visakhapatnam.
4 The Assistant Divisional Engineer Distribution Sub Division Gajuwaka
Eastern Power Distribution Company Of A.P Litd, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the 3rd respondent in assessing the petitioner to the back billing dues from June 2001 to September 2004 amounting to Rs12,30, 117 vide impugned proceeding No.DE/O/Z - II/ Vishakapatnam/ D.No. 910/05 dated 11. 03 . 2005 and the consequential action of the 2nd respondent in not considering the appeal vide impugned proceedings No. SE/O/VSP/AE/T2/F.21/D/No. 710/05 dated 31.3.2005 as arbitrary and illegal, being contrary the provisions of the Electricity Act, 2003 by way of issuance of a writ order or direction, one more particularly one in the nature or writ of Mandamus and consequently direct the Respondents 1to 4 to forbear from collecting any dues on account of back billing and pass such other order or orders as are deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioner: MR.D.V.SITARAMAMURTHY
Counsel for the Respondent No.: MR.M.SREERAMULU REDDY

The Court at the stage of admission made the following :

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ORAL ORDER:.

Heard both sides and at their request, this Writ Petition is taken up for disposal at the stage of admission.

The main question raised in this writ petition is with regard to the proportion of usage of the power i.e., between production and lighting and ancillary activities of the petitioner-Unit. The same is being disputed by the petitioner on several grounds. But, there is a right of appeal under the Indian Electricity Act, 2003. Section 127 of the Act, postulates that an appeal can be filed subject to the conditions mentioned therein.

Accordingly, without expressing any opinion on merits of the case, liberty is given to the petitioner to file an appeal after complying with the conditions mentioned under Section 127 of the Indian Electricity Act.

At this juncture, it is represented by the learned counsel appearing for the petitioner that an appeal had already been filed, but the same is not entertained because of non-compliance of the conditions mentioned in Section 127 of the Act.

Therefore, liberty is given to the petitioner to comply with the said conditions within a period of eight weeks from today in order to enable the appellate authority to entertain the appeal, and whereby all the questions raised in the Writ Petition can be agitated and to be answered by the appellate authority. However, it is made clear that in the meanwhile, there shall not be any disconnection.

With the above observation, this Writ Petition is disposed of. No costs.

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D.S.R. VARMA, J

DATED: 13.04.2005

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Note: Furnish copy in two days.

B/o ka

To

1 M/s. Eastern Power Distribution Company Of A.P Ltd, Operation Zone II, Kncharapalem.
2 The Superintending Engineer, OPeration: Visakhapatnam,
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